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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,899	09/15/2003	Edward Gentile		1276

7590 08/16/2004
Gentile Edward
P.O. Box 333
Cedarhurst, NY 11516

EXAMINER


PEDDER, DENNIS H

ART UNIT PAPER NUMBER

3612

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/662,899	Applicant(s) GENTILE, EDWARD	
	Examiner Dennis H. Pedder	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/15/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. The claims are not restricted at this time.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2-7 are rejected as dependent on a non-existent claim 55. These claims are treated as if dependent on claim 1, as believed intended.

Claims 8 is confusing and rejected under both the second and fourth paragraphs of 35 USC 112 as it is not clear if all details of the covering of claim 1 are recited in claim 8.

As written, the claim could be interpreted as limited only to the damage as described in claim 1. Further, since claim 1 is limited to the combination of covering and halter, claim 8 is vague in "area to be protected" as this is the nose area of claim 1 and further vague in "repeating the above method with each section..." as claim 1 recites only one section, the nose area.

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no support found for the term "high plasticizer concentration" and this term is therefore undeterminable for infringement.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swanson in view of either Castillo or Gentile.

Swanson shows the halter placed on the nose area. Applicant lists a found problem in paint damage beneath a front end halter. Note that Swanson uses clips and straps, all raising the possibility of damage to the finish. The solution to this problem is found in the prior art patents to either Castillo or Gentile. Note that the present application lacks continuity to the Gentile patent as the petition for revival was denied, rendering the Gentile patent pertinent under 35 USC 102(b). Both Castillo and Gentile teach that the static cling material discussed therein is for the purpose of protection of the vehicle

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finish. Therefore, It would have been obvious to one of ordinary skill to provide in Swanson a static cling protective film as taught by either Castillo or Gentile in order to protect the vehicle finish from abrasive damage.

As to claim 2, both secondary references use sectional covers. The choice of how to divide the covers is deemed to be an obvious expedient to one of ordinary skill in the art.

As to claim 3, all are commercially available materials known for their durability.

As to claim 4, thickness is an obvious expedient balancing durability vs. cost and weight.

As to claim 5, Castillo and Gentile both use PVC with a plasticizer concentration an obvious expedient to soften the static sheet.

Applicant may seasonally challenge, for the official record in this application, this and any other statement of judicial notice in timely manner in response to this office action. Please specify the exact statement to be challenged. Applicant is reminded, with respect to the specific challenge put forth, of the duty of disclosure under Rule 56 to disclose material which is pertinent to patentability including claim rejections challenged by applicant.

8. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swanson in view of either Castillo or Gentile as applied to claim 1 above, and further in view of Mascarenhas et al.

It would have been obvious to one of ordinary skill to provide in the references above indicia on a static cling material as taught by Mascarenhas et al. for aesthetic reasons.

As to claim 7, Mascarenhas et al. discloses text.

9. Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gentile in view of Castillo or Swanson in view of Gentile and Castillo.

As stated above, the scope of these claims is indeterminate. Gentile discloses all listed steps less h), k), l) and m). Steps h), k), and l) are listed by Castillo and step m) is simply a duplicate repeat for the multiple sections listed in Gentile. It would have been obvious to one of ordinary skill to provide in Gentile steps h), k), and l) as taught by Castillo in order to enhance attachment, remove bubbles, and verify installation, respectively as well as provide the same steps for multiple sections taught by Gentile.

As to claims 10-12, the use of a slight amount of detergent in the water pre-spray is a well known expedient in order to reduce surface tension and thus wet the entire area. The amount of detergent is not a patentable distinction, but an obvious expedient determined through testing to optimize. The use of a spray bottle is an obvious well known expedient to one of ordinary skill in the art.

As to claim 13, Castillo uses a squeegee.

Further, It would have been obvious to one of ordinary skill to provide this method as taught by Gentile and Castillo before applying a halter as taught by Swanson to the vehicle in order to reduce surface abrasion between halter and finish.

Drawings

10. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the indicia of claims 6-7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing

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sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

11. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claims 4-7 appear to lack any support.

12. The disclosure is objected to because of the following informalities: Page 2 of the specification is incorrect in continuity.

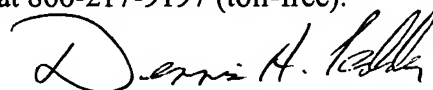
Appropriate correction is required.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178. The examiner can normally be reached on 5:30-2:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dennis H. Pedder
Primary Examiner
Art Unit 3612

8/12/04

DHP
8/12/2004